

Appeal No. VA11/1/001

**AN BINSE LUACHÁLA**  
**VALUATION TRIBUNAL**  
**AN tACHT LUACHÁLA, 2001**  
**VALUATION ACT, 2001**

**Kavanagh Group Ltd.**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 2205079, Supermarket at Lot No. 27B/2, Navenny Shopping Centre, Ballybofey, Stranorlar, Stranorlar, County Donegal.

**B E F O R E**

**Maurice Ahern - Valuer**

**Deputy Chairperson**

**Frank O'Donnell - B.Agr.Sc. FIAVI.**

**Member**

**Patricia O'Connor - Solicitor**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 10TH DAY OF JUNE, 2011**

By Notice of Appeal dated the 6th day of January, 2011, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €568 on the above-described relevant property.

The grounds of Appeal as set out in the Notice of Appeal are:

"Not valued in accordance with Valuation Act. Valuation is excessive. Comparisons relied upon are not comparable. NAV does not reflect 1988 values. The valuation is excessive in comparison to similar properties in the area. Substantially larger property (quantum). This is a standalone supermarket not part of a fully operational shopping centre. Secondary location. Valuation of yard."

The appeal proceeded by way of an oral hearing which took place in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 2<sup>nd</sup> day of March, 2011. At the hearing the appellant was represented by Mr. Patrick McCarroll, MRICS, ASCS. Mr. Briain O’Floinn, a District Valuer in the Valuation Office appeared on behalf of the respondent, the Commissioner of Valuation. At the hearing both parties adopted their précis which had previously been received by the Tribunal as being their evidence-in-chief.

## **The Property**

### **Location and Description**

The subject property is a supermarket unit, currently operating under the SuperValu franchise, in a newly constructed apartment and shopping centre development situated on Trusk Road in the town of Ballybofey. Trusk Road is off Navenny Street to the south of the town and is a minor road from the town. The subject property is located at a distance of approximately 400 metres from the centre of Ballybofey. The shopping centre is close to a planned entry/exit to the proposed new Donegal Town Bypass, the construction of which has been postponed.

The subject property includes a storage facility, office, toilet and staff accommodation, all of which are located in a basement with access from a lower yard. There is direct customer access to the subject property from the shopping centre’s surface car park, which has 140 spaces. A further 100 car parking spaces are located in a basement car park, from which lift access to the centre is provided.

The subject property is the only retail unit presently occupied in the shopping centre.

### **Accommodation**

The areas of the subject property agreed between the parties were as follows:

Supermarket	1,790.00 sq. metres
Basement Office	176.35 sq. metres
Stores	282.52 sq. metres

The respondent contended that the following areas should also be valued:

Canopy/Trolley Bay	118.26 sq. metres
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Cold Store (extra)	45.36 sq. metres
Steel Container	23.66 sq. metres
Walled Yard	227.60 sq. metres

### **Valuation History**

This is a new valuation. The proposed Valuation Certificate issued with a rateable valuation of €580 on 6<sup>th</sup> May, 2010. An appeal to the Commissioner was made on 14<sup>th</sup> June, 2010, following which the valuation was reduced to €568. It is against this decision of the Commissioner that the appeal to this Tribunal lies.

### **Tenure**

Freehold.

### **The Appellant's Case**

Mr. Pat McCarroll, having taken the oath, formally adopted his written précis as his evidence-in-chief. Mr. McCarroll pointed out that, apart from the subject property, no other units are occupied in the subject development, asserting that this is to the detriment of the trading position of the appellant company. Mr. McCarroll contended for a quantum allowance, owing to the size of the subject property. In this regard, he included in his précis a table showing that the size of the subject property was well in excess of a number of other supermarkets in the same Rating Authority area. Mr. McCarroll stated that, in his opinion, the location of the subject property is secondary. In relation to the basement of the subject, he stated it has 2 different head height levels. Regarding the office, Mr. McCarroll said that it is located in the basement with no natural light. Referring to the respondent's assessment of rateable valuation on the subject property, Mr. McCarroll said that a loading for cold stores and yards did not form part of the assessment of rateable valuation of any of the comparison properties put forward by either the appellant or the respondent. Mr. McCarroll also advised the Tribunal that the steel container included in the respondent's assessment of RV is, in fact, a temporary structure.

Mr. McCarroll contended for a rateable valuation of €496 on the subject property, calculated as follows:

Supermarket	1,790.00 sq. metres	@ €50.00 per sq. metre	=	€89,500.00
Offices	176.35 sq. metres	@ €25.00 per sq. metre	=	€ 4,409.00

Store	206.67 sq. metres	@ €20.50 per sq. metre	=	€ 4,237.00
Store	75.85 sq. metres	@ €15.00 per sq. metre	=	<u>€ 1,138.00</u>
				€99,284.00
		@ 0.5%	say	€496.00

### Comparisons

In support of his assessment of rateable valuation, Mr. McCarroll put forward 3 comparisons as follows (details of which are attached at Appendix 1 to this judgment):

1. Andies Superstore. Main Street, Stranorlar, Co. Donegal. RV€96.64.
2. Lidl. Dungloe, Co. Donegal. RV€303.
3. SuperValu, Dungloe, Co. Donegal. RV€360.

Regarding his comparisons, Mr. McCarroll said that Comparison No. 1 (Andies Superstore) was the most immediate comparison to the subject, location-wise, and the most recently revised property in the area. He said that Comparison No. 2 (Lidl, Dungloe) is differentiated from the subject property as it is a standalone supermarket and is not located in a retail shopping centre. With regard to Comparison No. 3 (SuperValu, Dungloe), he again made the point about a quantum allowance, arguing that the respondent in this case acknowledged quantum as an issue and that a quantum allowance had been applied in this case.

Referring to the respondent's comparisons, Mr. McCarroll pointed out that Comparisons Nos. 3, 4 and 5 are located in fully operational shopping centres. The respondent's Comparison No. 3 (Costcutter, Carndonagh), he stated, is also a petrol station.

### Cross-Examination

In response to questions put by Mr. O'Floinn, Mr. McCarroll agreed that the subject property had exclusive use of the walled yard and the appellant had a right to park a container on the ground, which was providing safe and secure storage. He also agreed that the cold store enhanced the use of the subject property. Mr. McCarroll agreed with Mr. O'Floinn that the original plan for the subject property was that customers would use a different entrance and reach the supermarket by passing other units, but that at present the entrance off the main car park meant that the subject property is operating as a standalone supermarket and not as a unit in a shopping centre. Mr. McCarroll felt that there were no advantages to the appellant

because of this, as there were no other retail units occupied in the subject development and, therefore, less of a flow of customers.

Concerning his choice of comparisons, Mr. McCarroll agreed with the respondent that there were 4 supermarkets in Dungloe, that Lidl and Aldi were in the same area of the town, and that Lidl was opposite the SuperValu shopping centre. Mr. McCarroll agreed with Mr. O'Floinn that location would have a bearing on where a company would decide to build a shopping centre, but felt that catchment area is equally as important. Mr. McCarroll stated that Dungloe had a substantial catchment area. In response to a question from Mr. O'Floinn as to whether he considered Andies Superstore to be comparable to the subject property, Mr. McCarroll said that, given that it was in the immediate area (i.e. the Ballybofey/Stranorlar area) and was the most recently revised property, he would consider it comparable. Mr. McCarroll agreed that there was generous parking available at the appellant's Comparison No. 3. Asked by Mr. O'Floinn if it was not normal commercial practice to advertise the location of a supermarket, Mr. McCarroll replied that he was not aware that any of the other 3 supermarkets in Ballybofey/Stranorlar had gone to the extreme lengths to which the appellant company had had to resort in order to advertise their business.

### **The Respondent's Case**

Mr. Briain O'Floinn, having taken the oath, adopted his précis as his evidence-in-chief. Following some amendments made to his précis immediately prior to the hearing, Mr. O'Floinn contended for a rateable valuation of €568 on the subject property, calculated as follows:

Supermarket	1,790.00 sq. metres @ €56.71 per sq. metre	=	€101,510.90
Basement Offices	176.35 sq. metres @ €27.33 per sq. metre	=	€ 4,819.65
Basement Stores	282.54 sq. metres @ €20.50 per sq. metre	=	€ 5,792.07
Cold Store extra	45.36 sq. metres @ €13.66 per sq. metre	=	€ 619.62
Steel Container	23.66 sq. metres @ €13.66 per sq. metre	=	€ 323.20
Walled Yard	227.60 sq. metres @ €2.00 per sq. metre	=	<u>€ 455.20</u>
Total			€113,520.64
@ 0.5% = 567.70	RV Say €568		

Mr. O’Floinn then proceeded to highlight the salient points of his case. Acknowledging that there was some doubt about when the Donegal Town Bypass would be constructed, Mr. O’Floinn said it had been actively planned and made the point that the link road from the bypass to Ballybofey will pass right by the supermarket which will give it a higher profile. Mr. O’Floinn pointed out that the subject property has a large goods lift to the ground floor and that there is direct customer access to the supermarket from the car park. Mr. O’Floinn said that in arriving at an assessment of rateable valuation, the respondent had taken account of the size of the subject property by deliberately applying a lower rate per sq. metre to the retail area of the subject than that applied to most of the respondent’s comparisons. Regarding the steel container, Mr. O’Floinn said that it provided the subject property with additional safe and secure storage in the yard and that it was perfectly legitimate to rate it. With regard to the trolley bay he said that it was a covered area with no additions and was deemed to be included in the area for the supermarket. In a general comment on the subject property, Mr. O’Floinn said that it was “the only show in town” in terms of a substantial supermarket with multiple choices for shoppers.

In support of his assessment of rateable valuation, Mr. O’Floinn put forward 7 comparisons, details of which are attached at Appendix 2 to this judgment. With regard to his comparisons he made the following points:

1. Comparison 1 (Lidl, Donegal Town) was valued at €62.88 per sq. metre which is higher than the subject property. Mr. O’Floinn said that the lower valuation for the subject property was motivated by a desire to be fair and equitable to the occupier.
2. Comparison 2 (SuperValu, Donegal Town) was rated at €63.34 per sq. metre and the stores were rated at €34.17 per sq. metre, which were higher than the subject property. The respondent had deliberately adopted the lower figure.
3. Comparison 4 (SuperValu, Dungloe) was given a quantum allowance. Mr. O’Floinn said that this comparison is placed well back from the road. He said that property did not have strong visibility and that, as a result, the occupier engaged in considerable advertising.
4. Comparison 5 (SuperValu, Carndonagh) is located in a very small town.

5. With regard to Comparison 6 (Lidl, Dungloe) Mr. O'Floinn said that Dungloe was a very crowded location for supermarkets. He asked if the subject property had the same intensity of competition as that which exists in Dungloe market and stated his belief that the answer is no.

Mr. O'Floinn also put forward comparative evidence regarding the valuation of yards in the County Donegal Rating Authority area. With regard to these comparisons, he said that some were based in rural areas and were much larger than yard of the subject property. He pointed out that the yard of the subject property is exclusively occupied.

### **Cross-examination**

In cross-examination, Mr. O'Floinn stated that, to the best of his knowledge, there were 3 supermarkets in Ballybofey, i.e. the subject property and 2 others. However, Mr. McCarroll submitted that there are 4 supermarkets in the Ballybofey/Stranorlar area. When questioned by Mr. McCarroll about his second comparison (SuperValu, Donegal Town), Mr. O'Floinn stated that he was not aware if the property had an additional cold store unit. Neither was he aware of the position of the yard at his second comparison, which he acknowledged was not included in the valuation of that property. With regard to his Comparison No. 3 (George Doherty, Carndonagh), Mr. O'Floinn said that he was not aware if the property had a cold store. With regard to his Comparison No. 4 (SuperValu, Dungloe), Mr. O'Floinn confirmed that neither the loading area, the refrigeration unit, nor the yard were assessed in the valuation of that property. With regard to his Comparison No. 5 (SuperValu, Carndonagh), Mr. O'Floinn confirmed that the yard was not included in the valuation of that property. He said he was not aware whether the property had a cold store. Mr. O'Floinn also agreed with Mr. McCarroll's assertion that Stranorlar is an inferior location for doing business.

Mr. O'Floinn stated further stated that he didn't regard the appellant's Comparison No. 1 (Andies Superstore) as being comparable to the subject property. He stated that, from the photograph provided, it looked to him like an industrial-type premises, and that the standards of insulation, walls, furnishings, etc., looked to be very basic. He stated his opinion that a Revision Officer would not have used that property as a comparison.

**Summaries**

In summing up Mr. McCarroll again stated that his main points were quantum, i.e. the size of the subject property, and its location. He said that all of the respondent's comparisons were located in established shopping centres whereas subject property is, in effect, a standalone supermarket in a secondary location. Mr. McCarroll argued that the subject property cannot be valued in terms of what may happen vis à vis the construction of a motorway bypass.

Mr. O'Floinn summed up by saying that as the subject property was not built on the main street, it had more than adequate parking. He asserted that if the subject was to be regarded as being a standalone property, this did not disadvantage it, since the property had a direct entrance and that shoppers didn't have to pass any other units to access the subject. Mr. O'Floinn also made the point that there were no comparable supermarkets of this scale in Ballybofey.

**Findings**

The Tribunal, having carefully considered all the evidence and arguments that were adduced by the parties, makes the following findings:

1. The Tribunal notes that the subject property is the only retail unit presently occupied in the subject development.
2. While construction of the Donegal Town Bypass has been postponed at present, the Tribunal considers it highly probable that the subject development will benefit from the bypass once it has been constructed.
3. The Tribunal notes that the respondent gave a quantum allowance of 5% on the rateable valuation of SuperValu in Dungloe, a comparison common to both parties and a property which is 50% smaller than the subject property. Accordingly, the Tribunal believes it appropriate to apply a similar quantum allowance to the retail area of the subject property.
4. The Tribunal is of the view that no premium should be added to the RV of the subject property in respect of the cold store.



5. The Tribunal is of the view that the yard of the subject property should not be included in the valuation of the subject property.
6. The Tribunal notes that the steel container included in the respondent's valuation is not a permanent structure and, accordingly, should not be valued.

### **Determination**

Having regard to the foregoing the Tribunal determines the rateable valuation of the property concerned to be €535, calculated as follows:

Supermarket	1,790.00 sq. metres @ €53.87 per sq. metre =	€ 96,427.30
Basement offices	176.35 sq. metres @ €27.33 per sq. metre =	€ 4,819.65
Basement stores	282.54 sq. metres @ €20.50 per sq. metre =	<u>€ 5,792.07</u>
NAV		€107,039.02
€107,039.02 @ 0.5%		= €535.19
RV Say €535		

And the Tribunal so determines.